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August 27, 2012

File Number: 04BR-160826

VIA CM/ECF

Hon. Cathy L. Waldor, U.S.M.J.
United States District Court
District of New Jersey
M.L. King, Jr. Federal Building & Courthouse
50 Walnut Street
Newark, NJ 07101

Re: *BanxCorp v. Bankrate, Inc.*, Civ. No. 07-3398 (the "Bankrate Action")
BanxCorp v. LendingTree, LLC, Civ. No. 10-2467 (the "LendingTree Action")

Dear Judge Waldor:

We represent defendant LendingTree, LLC ("LendingTree") in the action entitled *BanxCorp v. LendingTree, LLC*, Civ. No. 10-2467. We write in connection with the status conference scheduled for August 30, 2012 at 12:30 p.m., and the Court's request that each party submit a letter outlining all pending discovery disputes.

As between BanxCorp and LendingTree fact discovery is complete. The only "issue" that is pending as to LendingTree is the schedule for expert discovery. In that regard, the Court will recall that counsel for the parties appeared before the Court by telephone on June 14, 2012 concerning, *inter alia*, the sequence and timing for expert discovery. During that teleconference, the Court instructed counsel for Bankrate to submit a proposed order reflecting the schedule that the Court ordered during that teleconference.

Counsel for Bankrate submitted the schedule ordered by the Court on June 20, 2012 [Dkt. # 341]. That schedule provided that:

- (1) In the Bankrate Action, Bankrate and BanxCorp shall exchange initial reports on or before August 20, 2012, and Bankrate and BanxCorp shall respond to issues raised in each other's reports by September 20, 2012;
- (2) In the LendingTree Action, LendingTree shall submit a report on or before October 20, 2012, and BanxCorp shall respond to that report by November 20, 2012
- (3) Expert depositions shall be complete by December 20, 2012.

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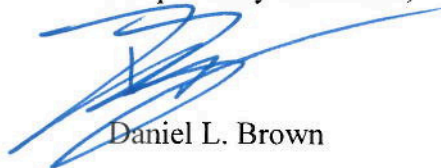
Following counsel for Bankrate's submission of the schedule ordered by the Court during the June 14, 2012 teleconference, counsel for BanxCorp, including Mr. Mordechai Lipkis who did not even participate in the June 14, 2012 teleconference, lodged certain objections to that scheduling order.

The Court was abundantly clear during the June 14, 2012 teleconference as to the Court's decision concerning the sequencing and timing of expert discourses, including that it would not hear additional argument on the subject. There is no reason whatsoever to allow BanxCorp to argue this matter yet again. Therefore, the order submitted by counsel for Bankrate should only be modified to account for the passage of time.

Based on the foregoing, LendingTree submits that the Court should issue a schedule for expert discovery that adds one-month to the dates ordered on June 14, 2012 such that the expert discovery schedule should provide that:

- (1) In the Bankrate Action, Bankrate and BanxCorp shall exchange initial reports on or before September 20, 2012, and Bankrate and BanxCorp shall respond to issues raised in each other's reports by October 20, 2012;
- (2) In the LendingTree Action, LendingTree shall submit a report on or before November 20, 2012, and BanxCorp shall respond to that report by December 20, 2012
- (3) Expert depositions shall be complete by January 20, 2012.

Respectfully submitted,



Daniel L. Brown

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

cc: Counsel for all parties (via ECF)